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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Timothy P. Axe, et al.
Serial No. 10/664,372
Filed: September 17, 2003
Confirmation No.: 4566
Title: SQUEEZABLE CONTAINER AND METHOD
OF MANUFACTURE
Attorney Docket: 18125
Group Art Unit: 3727

CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the Assistant Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Diana Castillo
(Name of Person Making Deposit)

Diana Castillo
(Signature)

September 15, 2004
(Date)

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

With respect to the disclosure and claims of the subject patent application identified above, the Examiner's attention is respectfully directed to the following information:

Prior Art Container

The Examiner's attention is respectfully directed to the accompanying photographs of a blue "Energy Water" container. This container is acknowledged as prior art to the present application, and is believed to be the same as or substantially similar to the container illustrated in FIGS. 6 and 7 of Lane 2002/0008077 previously made of-record in this application.

Copending Applications

The Examiner's attention additionally is directed to US 2004/0164047 based upon Serial No. 10/374,745 filed February 25, 2003. The Examiner's attention also is directed to the enclosed design application, believed to be is Serial No. 29/176,695 also filed on February 25, 2003. It is believed that both of these patent applications name Jeremy M. White as inventor. These pending patent applications are **not** acknowledged as prior art to the present application. In point of fact, as set forth in detail in paragraphs 2-5 of the Declaration that accompanies this submission, the subject matter disclosed in these copending applications was **derived from** the invention of the present application. Therefore, these copending applications, although filed prior to the present application, are **not** prior art to the subject matter of the present application. The enclosed copy of a Declaration filed by Mr. White in Serial No. 10/374,745 confirms that the subject matter of that application is **not** prior art to the present application. It is understood that the present

submission also will be submitted in the two White applications by the applicant in those applications.

Inventorship Conflict

Subsequent to the filing of the present application, an inventorship conflict arose in that one of the named inventors, Timothy P. Axe, stated that another of the named inventors, Q. Peter Zhang, did not contribute to the design of the container that is the subject of the present application. See the attached memo from Mr. Axe dated January 6, 2004 and the response by Mr. Zhang dated January 8, 2004. The facts are set forth at paragraphs 6-10 of the enclosed Declaration. This Declaration has been signed by Messrs. Zhang and Simpson, named as joint inventors in this application. Mr. Axe, the other joint inventor, has declined to sign the declaration. Copies are enclosed, for the Examiner's information, of e-mail correspondence to and from Mr. Axe concerning the Declaration.

In summary, Mr. Zhang states in the Declaration that he instructed Mr. Axe (1) not to change the dimensions of the base and dome of the container from those of the existing Edge container then being marketed by the customer, (2) to make the container body "concave," showing Mr. Axe the profile of a container similar to the "Energy Water" container in the accompanying photographs, (3) to provide ribs or rings on the container sidewall so that the sidewall would spring back after being squeezed, and (4) to make those rings concave rather than convex so that the ribs would not buckle when the container is squeezed. Mr. Axe states that Mr. Zhang did not give him these instructions or otherwise contribute to the design of the container. Mr. Axe prepared the company "Confidential Disclosure Record of Invention" listing himself and Mr. Zhang, along with

Charles P. Simpson, as joint inventors, and executed the Declaration in the present application that lists himself, Mr. Zhang and Mr. Simpson as joint inventors. Prior to January 2004, Mr. Axe did not raise any question or objection to inclusion of Mr. Zhang as a joint inventor.

Mr. Axe is no longer employed by the assignee of the present application or any of its affiliates. Enclosed are copies of e-mail correspondence with Mr. Axe concerning the accompany Declaration. Mr. Axe's current position apparently is that Mr. Axe created the design of the present application with his father (not associated in any way with the present assignee or its affiliates) without any input from either Mr. Simpson or Mr. Zhang. Also enclosed are copies of a September 1, 2004 letter from Mr. Axe with accompanying undated, unsigned and unwitnessed sketch, which Mr. Axe states in the letter that he made.

After a review of the situation, including interviews with the three named inventors and other persons employed by the assignee of the present application and involved with the development of the subject container design, and a review of the documentation available on the design development, it has been determined that there is insufficient information to warrant a change in the persons identified as inventors - i.e., that

Messrs. Axe, Zhang and Simpson should continue to be named as joint inventors in the present application.

Please charge any fees associated with this submission to Acct. No. 15-0875 (Owens-Illinois).

Respectfully submitted,

REISING, ETHINGTON, BARNES,
KISSELLE, P.C.

By 

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RCC/dc
Enclosures

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INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Use as many sheets as necessary)

Sheet 1

of 2

Complete if Known

Application Number

Filing Date

First Named Inventor

Art Unit

Examiner Name _____

Attorney Docket Number	18125 (OI)
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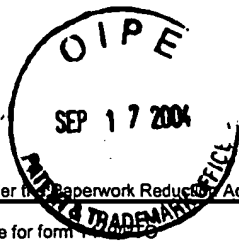
[illegible][illegible]

Examiner Signature		Date Considered	
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This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Complete if Known**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT**

(Use as many sheets as necessary)

Application Number

Filing Date

First Named Inventor

Art Unit

Examiner Name

Sheet

2

of

2

Attorney Docket Number

18125 (OI)

NON PATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T ²
	7	"Energy Water" Container Pictures	
	8	Design Patent S/N: 29/176,695 Filed: February 25, 2003	

Examiner Signature	Date Considered
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*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

1 Applicant's unique citation designation number (optional). 2 Applicant is to place a check mark here if English language Translation is attached.

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